

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

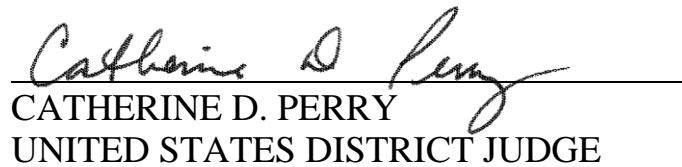
MEMORANDUM AND ORDER

Plaintiff asks me to reconsider my May 2, 2016, Order wherein I struck his proposed “First Amended Verified Complaint” because he failed to seek leave to file it as instructed and because the proposed amended complaint added back in defendants and claims that were previously dismissed with prejudice. (Order, ECF 120.) I have reviewed the contentions raised in plaintiff’s motion to reconsider and am not persuaded that I erred in my decision to strike his proposed amended complaint. Most significantly, the “additional facts” that plaintiff claims provide the bases for his amended complaint all address claims and defendants that, as indicated in my May 2 Order, were previously dismissed with prejudice in my Memorandum and Order entered March 7, 2016. Plaintiff’s recitation of additional facts does not resurrect claims that were previously dismissed on their merits for failure to state a claim. *See Rodgers v. University of Mo. Bd. of Curators*, 56 F.

Supp. 3d 1037 (E.D. Mo. 2014) (Rule 12(b)(6) dismissal for failure to state a claim is a dismissal with prejudice on the merits); *see also Carter v. Money Tree Co.*, 532 F.2d 113 (8th Cir. 1976) (dismissal for failure to state a claim is *res judicata* to claims plaintiff was attempting to state).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's Motion to Reconsider the Striking of his First Amended Petition and for Leave to File First Amended Petition [125] is **DENIED**.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 16th day of June, 2016.